

REMARKS

1. Claims Rejections - 35 U.S.C. §102(e) and/or 35 U.S.C. §103(a)

Claims 1-3 and 6 were rejected in the Office Action dated January 28, 2005, under 35 U.S.C. §102(e) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Shimaoka (U.S. Patent No. 6,473,178). Applicant respectfully traverses this rejection. However, in order to provide clarification, claims 1-3 and 6 have been canceled and new claims 7-15 have been added.

Claims 7 and 15 are independent claims. Claims 8 – 14 depend from independent claim 7.

The Examiner stated that claims 1 – 3 and 6 were anticipated, or in the alternative obvious over Shimaoka. However, the Shimaoka reference does not teach or suggest the claimed element, as cited in new claims 7 -14, of “a processor for receiving the first light intensity measurements and determining a first low sensitivity region for a particle size, and for receiving the second light intensity measurements and determining a second low sensitivity region for a particle size, wherein the processor determines a particle size distribution by combining the first light intensity measurements and the second light intensity measurements such that the first low sensitivity region and the second low sensitivity region are eliminated in the resulting combined data.”

In the Shimaoka reference, the determined particle size distribution includes breakpoints, or low sensitivity regions, which prevent an accurate result.

Specifically, Shimaoka teaches:

“the measured results of the particle size distribution have breakpoints without fail, so that accurate particle size distribution of the particle group to be measured can not be obtained. Here, since the particle size distribution generally relies on

its measuring method, even if the measured results obtained based on different measuring methods are combined together, the result is meaningless.”

See Col. 5, lines 11 – 18.

Thus, the Shimaoka reference does not teach or suggest “a processor for receiving the first light intensity measurements and determining a first low sensitivity region for a particle size, and for receiving the second light intensity measurements and determining a second low sensitivity region for a particle size, wherein the processor determines a particle size distribution by combining the first light intensity measurements and the second light intensity measurements such that the first low sensitivity region and the second low sensitivity region are eliminated in the resulting combined data” as recited in the claimed invention. Accordingly, Applicant respectfully submits that new claims 7 – 14 are patentable over Shimaoka and the 35 U.S.C. § 102(e)/103(a) rejection has been overcome.

Furthermore, the Shimaoka reference does not teach or suggest the claimed element, as cited in new independent claim 15, of “combining the first light intensity measurements with the second light intensity measurements such that the first low sensitivity region and the second low sensitivity region are eliminated in the resulting combined data measurement, thereby providing an accurately determined particle size distribution.” Accordingly, Applicant respectfully submits that new claim 15 is patentable over Shimaoka and the 35 U.S.C. § 102(e)/103(a) rejection has been overcome.

2. Claims Rejections - 35 U.S.C. §103(a)

Claims 4 and 5 were rejected in the Office Action dated January 28, 2005, under 35 U.S.C. §103(a) as obvious over Shimaoka (U.S. Patent No. 6,473,178). Applicant respectfully traverses this rejection. However, in order to provide clarification, claims 4 and 5 have been canceled and new claims 7-15 have been added.

Claims 7 and 15 are independent claims. Claims 8 – 14 depend from independent claim 7.

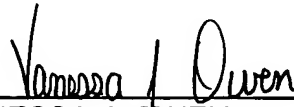
For the same arguments stated above, Applicant respectfully submits that the Shimaoka reference does not teach or suggest the invention as cited in new claims 7 – 15. Accordingly, new claims 7 – 15 are patentable over Shimaoka (for the same reasons stated above) and the 35 U.S.C. § 103(a) rejection has been overcome.

CONCLUSION

Applicant has made an earnest and bona fide effort to clarify the issues before the Examiner and to place this case in condition for allowance. In view of the foregoing discussions, it is clear that the differences between the claimed invention and the cited references are such that the claimed invention is patentably distinct over the cited references. Therefore, consideration and allowance of claims 7 – 15 is believed to be in order, and an early Notice of Allowance to this effect is respectfully requested. If the Examiner should have any questions concerning the foregoing, the Examiner is invited to telephone the undersigned attorney at (310) 712-8316. The undersigned attorney can normally be reached Monday through Friday from about 9:00 AM to 6:00 PM Pacific Time.

Respectfully submitted,

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